

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION (DAYTON)**

THE PASTRY PORTAL, INC., : Case No. 3:23-cv-00135
Plaintiff, : District Judge Thomas M. Rose
vs. : Magistrate Judge Caroline H. Gentry
ELIZABETH SIEFKE, *et al.*, :
Defendants. :

REPORT & RECOMMENDATION

This matter is before the undersigned Magistrate Judge for a Report and Recommendation following Plaintiff's failure to comply with an Order of the Court.

On March 31, 2024, District Judge Thomas M. Rose issued an opinion and order finding that Plaintiff's Complaint (Doc. No. 1) failed to plead the diversity and amount-in-controversy requirements of 28 U.S.C. § 1332(a)(2). (Doc. No. 39, PageID 370.) Judge Rose therefore concluded that this Court lacked subject-matter jurisdiction over Plaintiff's claims. (*See id.*) Accordingly, Judge Rose dismissed Plaintiff's Complaint pursuant to Federal Rule of Civil Procedure 12(h)(3). (*Id.* at PageID 375.) However, he permitted Plaintiff to file, on or before March 27, 2024, an amended complaint containing allegations sufficient to establish the subject-matter jurisdiction of the Court. (*Id.*)

Upon Plaintiff's requests (Doc. Nos. 40-43), the undersigned extended that deadline three times. The most recent extension expired May 1, 2024. To date, Plaintiff has not filed an amended complaint.

Accordingly, for the reasons set forth in the Court's March 31 Order (Doc. No. 39), the undersigned Magistrate Judge **RECOMMENDS** that this matter be terminated on the Court's docket.

IT IS SO RECOMMENDED.

/s/ Caroline H. Gentry
Caroline H. Gentry
United States Magistrate Judge

Procedure on Objections

Pursuant to Fed. R. Civ. P. 72(a), any party may serve and file specific, written objections within **FOURTEEN** days after being served with this Report and Recommendation (“Report”). Pursuant to Fed. R. Civ. P. 6(d), this period is extended to **SEVENTEEN** days if this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(C), (D), or (F). Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report is based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party’s objections within **FOURTEEN** days after being served with a copy.

Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).